

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 14TH NOVEMBER 2006 / 23RD KARTHIKA 1928

WP(C).No. 25819 of 2006(W)

PETITIONER:

SUBODHAN, ADVOCATE,
OOTTARA, KALLIYOOR P.O., NEMOM,
THIRUVANANTHAPURAM.

BY ADV. SRI.D.SOMASUNDARAM

RESPONDENTS:

1. CO-OPERATIVE ARBITRATION COURT,
THIRUVANANTHAPURAM.
2. DISTRICT CO-OPERATIVE BANK,
THIRUVANANTHAPURAM REPRESENTED BY
ITS GENERAL MANAGER.
3. N.BHASURANGAN, PRESIDENT,
KANDALA SERVICE CO-OPERATIVE BANK LTD.,
NO.T.1971, KANDALA, KATTAKADA, THIRUVANANTHAPURAM.
4. M.P.SAJU, VICE PRESIDENT,
DISTRICT CO-OPERATIVE BANK, THIRUVANANTHAPURAM
(RETURNING OFFICER OF THE ELECTION OF THE
PRESIDENT).

BY ADV. SRI.T.R.RAMACHANDRAN NAIR(SC T.D.CO-OPB
SRI.P.V.BABY

BY SENIOR GOVT. PLEADER SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14/11/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

Ext.P1

True copy of the ARC 28/2006 dated 3.7.2006 filed
before the Hon'ble Co-operative Arbitration Court,
Thiruvananthapuram.

//TRUE COPY//

P.A. to Judge.

J.M. JAMES, J.

W.P.(C) No. 25819 of 2006

Dated this the 14th November, 2006.

J U D G M E N T

The writ petitioner and the 3rd respondent were the contestants for the Presidentship of the 2nd respondent, District Co-operative Bank, Thiruvananthapuram. Both of them secured seven votes each. Therefore, under Rule 43(7) of the Kerala Co-operative Societies Rules, in short 'the Rules', lots were drawn and luck favoured the writ petitioner. Thus, he became the President. It is admitted by both sides that the proceedings challenging the election of the President, is pending before the Co-operative Arbitration Court, as ARC No.28/2006. Meanwhile, this writ petition is filed by the petitioner to declare that the 3rd respondent being the President of the Kandala Service Co-operative Bank Ltd., Kattakada, is not eligible to contest as the President of the 2nd respondent Bank, which is the same type as that of the former and the 3rd respondent being the President. Therefore, resorting to Section 28(3) of the Kerala Co-operative Societies Act, in short 'the Act', and the proviso thereunder, it is prayed by the learned counsel, Sri.D.Somasundaram, to direct the 3rd

respondent to refrain from proceeding with the election petition, ARC.28/2006, pending before the Co-operative Arbitration Court, Thiruvananthapuram.

2. The proviso to Section 28(3) of the Act state that, 'no member of a committee shall be the President or Chairman of more than one Society of the same type'.

3. It is admitted by the learned counsel that the 3rd respondent is President of Kandala Service Co-operative Bank Ltd., Kattakada. However, the learned counsel, Sri.P.V.Baby, submits that he has not been elected as the President of the second respondent Bank, and then alone the application of the proviso to Section 28(3) of the Act comes into play. He further submitted that even if the 3rd respondent is declared elected as the President of the 2nd respondent Bank, he has the option to resign the Presidentship, which he is now holding.

4. On analysis of the provisions contained under Section 28(3) of the Act, I am of the opinion that unless the 3rd respondent is elected as the President, the operation of Section 28(3) of the Act will not come into play. Therefore, the submissions of the learned counsel appearing for the petitioner cannot be accepted.

5. The prayer that the 3rd respondent may be restrained from continuing with the proceedings before the Arbitration Court also is unsustainable. Hence, the writ petition fails, and is dismissed.

**J.M. JAMES,
JUDGE**

nj.

